

AMENDED IN SENATE JUNE 2, 2005  
AMENDED IN SENATE MAY 27, 2005  
AMENDED IN SENATE APRIL 21, 2005

**SENATE BILL**

**No. 556**

**Introduced by Senator Migden**

February 18, 2005

---

An act to amend Section 11999.6 of the Health and Safety Code, and to amend Sections 1210, 1210.1, and 3063.1 of the Penal Code, relating to drug treatment, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as amended, Migden. Drug treatment.

(1) Existing law, added by initiative statute, provides that a person convicted of a nonviolent drug possession offense shall receive probation with completion of a drug treatment program as a condition of probation. Existing law also provides that, except as specified, a person's parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating a drug-related condition of parole, but that an additional condition of parole for those offenses or violations shall be completion of a drug treatment program.

This bill would state that no person shall be denied the opportunity to benefit from the above provisions based solely on evidence of a co-occurring psychiatric disorder.

(2) Existing law defines "successful completion of treatment" for purposes of the provisions in (1) as a defendant who has had drug treatment imposed as a condition of probation who has completed the prescribed course of treatment and, as a result, there is reasonable

cause to believe that the defendant will not abuse controlled substances in the future.

This bill would delete from the definition the condition that there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.

(3) Existing law provides that drug treatment services provided pursuant to the provisions in (1) for a defendant on probation or parole may not exceed 12 months, not including aftercare.

This bill would authorize a court to impose treatment beyond 12 months, for a period of treatment and aftercare to not exceed 24 months.

(4) Existing law authorizes a court to set aside the conviction of a defendant who has successfully completed drug treatment under the provisions in (1), and to dismiss the indictment, complaint or information against the defendant.

This bill would specify the conditions under which a defendant undergoing narcotics replacement treatment would be deemed to have successfully completed treatment.

(5) Under the provisions in (1), if a defendant violates probation for a 3rd time or parole for a 2nd time, a court is required to revoke his or her probation and the parole authority is required to revoke his or her parole.

This bill would authorize a court to extend probation and the parole authority to extend parole by intensifying or altering the defendant's drug treatment plan.

(6) Existing law creates a state fund to award counties money to implement the drug treatment requirements of the provisions in (1), but prohibits money in that fund from being used to pay for the cost of drug testing.

This bill would prohibit a county from spending more than 25% of its allocation for those provisions on costs or services other than drug treatment, training, counseling, or housing for defendants, as specified.

(7) Because the bill would change probation related duties relative to these defendants, the bill would change the penalty for crimes, and thus would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(9) Because the bill would amend an initiative statute, it would require a 2/3 vote for enactment by the Legislature.

(10) *The bill would declare that it is to take effect immediately as an urgency statute.*

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11999.6 of the Health and Safety Code  
2 is amended to read:  
3 11999.6. Moneys deposited in the Substance Abuse  
4 Treatment Trust Fund shall be distributed annually by the  
5 Secretary of the Health and Human Services Agency through the  
6 State Department of Alcohol and Drug Programs to counties to  
7 cover the costs of placing persons in and providing drug  
8 treatment programs under this act, and vocational training, family  
9 counseling and literacy training under this act. A county may not  
10 spend more than 25 percent of the amount allocated to it on costs  
11 or services other than drug treatment, vocational training, literacy  
12 and education, family counseling, or housing in sober living  
13 homes or other residences that are likely to support recovery  
14 from addiction. Additional costs that may be reimbursed from the  
15 Substance Abuse Treatment Trust Fund include probation  
16 department costs, court monitoring costs and any miscellaneous  
17 costs made necessary by the provisions of this act other than drug  
18 testing services of any kind. Those moneys shall be allocated to  
19 counties through a fair and equitable distribution formula that  
20 includes, but is not limited to, per capita arrests for controlled  
21 substance possession violations and substance abuse treatment  
22 caseload, as determined by the department as necessary to carry  
23 out the purposes of this act. The department may reserve a  
24 portion of the fund to pay for direct contracts with drug treatment  
25 service providers in counties or areas in which the director of the  
26 department has determined that demand for drug treatment  
27 services is not adequately met by existing programs. However,  
28 nothing in this section shall be interpreted or construed to allow  
29 any entity to use funds from the Substance Abuse Treatment

1 Trust Fund to supplant funds from any existing fund source or  
2 mechanism currently used to provide substance abuse treatment.

3 SEC. 2. Section 1210 of the Penal Code is amended to read:

4 1210. As used in Sections 1210.1 and 3063.1 of this code,  
5 and Division 10.8 (commencing with Section 11999.4) of the  
6 Health and Safety Code:

7 (a) The term “nonviolent drug possession offense” means the  
8 unlawful personal use, possession for personal use, or  
9 transportation for personal use of any controlled substance  
10 identified in Section 11054, 11055, 11056, 11057 or 11058 of the  
11 Health and Safety Code, or the offense of being under the  
12 influence of a controlled substance in violation of Section 11550  
13 of the Health and Safety Code. The term “nonviolent drug  
14 possession offense” does not include the possession for sale,  
15 production, or manufacturing of any controlled substance and  
16 does not include violations of Section 4573.6 or 4573.8.

17 (b) The term “drug treatment program” or “drug treatment”  
18 means a state licensed and/or certified community drug treatment  
19 program, which may include one or more of the following:  
20 outpatient treatment, half-way house treatment, narcotic  
21 replacement therapy, drug education or prevention courses and/or  
22 limited inpatient or residential drug treatment as needed to  
23 address special detoxification or relapse situations or severe  
24 dependence. The term “drug treatment program” or “drug  
25 treatment” includes a drug treatment program operated under the  
26 direction of the Veterans Health Administration of the  
27 Department of Veterans Affairs or a program specified in Section  
28 8001; such a program shall be eligible to provide drug treatment  
29 services without regard to the licensing or certification provisions  
30 required by this subdivision. The term “drug treatment program”  
31 or “drug treatment” does not include drug treatment programs  
32 offered in a prison or jail facility.

33 (c) The term “successful completion of treatment” means that  
34 a defendant who has had drug treatment imposed as a condition  
35 of probation has completed the prescribed course of drug  
36 treatment.

37 (d) The term “misdemeanor not related to the use of drugs”  
38 means a misdemeanor that does not involve (1) the simple  
39 possession or use of drugs or drug paraphernalia, being present

1 where drugs are used, or failure to register as a drug offender, or  
2 (2) any activity similar to those listed in paragraph (1).

3 SEC. 3. Section 1210.1 of the Penal Code is amended to read:

4 1210.1. (a) Notwithstanding any other provision of law, and  
5 except as provided in subdivision (b), any person convicted of a  
6 nonviolent drug possession offense shall receive probation. As a  
7 condition of probation the court shall require participation in and  
8 completion of an appropriate drug treatment program. The court  
9 may also impose, as a condition of probation, participation in  
10 vocational training, family counseling, literacy training and/or  
11 community service. A court may not impose incarceration as an  
12 additional condition of probation. Aside from the limitations  
13 imposed in this subdivision, the trial court is not otherwise  
14 limited in the type of probation conditions it may impose.  
15 Probation shall be imposed by suspending the imposition of  
16 sentence. No person shall be denied the opportunity to benefit  
17 from the provisions of this section based solely on evidence of a  
18 co-occurring psychiatric disorder.

19 In addition to any fine assessed under other provisions of law,  
20 the trial judge may require any person convicted of a nonviolent  
21 drug possession offense who is reasonably able to do so to  
22 contribute to the cost of his or her own placement in a drug  
23 treatment program.

24 (b) Subdivision (a) does not apply to either of the following:

25 (1) Any defendant who previously has been convicted of one  
26 or more serious or violent felonies in violation of subdivision (c)  
27 of Section 667.5 or Section 1192.7, unless the nonviolent drug  
28 possession offense occurred after a period of five years in which  
29 the defendant remained free of both prison custody and the  
30 commission of an offense that results in a felony conviction other  
31 than a nonviolent drug possession offense, or a misdemeanor  
32 conviction involving physical injury or the threat of physical  
33 injury to another person.

34 (2) Any defendant who, in addition to one or more nonviolent  
35 drug possession offenses, has been convicted in the same  
36 proceeding of a misdemeanor not related to the use of drugs or  
37 any felony.

38 (3) Any defendant who, while using a firearm, does either of  
39 the following:

1 (A) Unlawfully possesses any amount of a substance  
2 containing either cocaine base, cocaine, heroin,  
3 methamphetamine, or a liquid, nonliquid, plant substance, or  
4 hand-rolled cigarette, containing phencyclidine.

5 (B) Is unlawfully under the influence of cocaine base, cocaine,  
6 heroin, methamphetamine or phencyclidine.

7 (4) Any defendant who refuses drug treatment as a condition  
8 of probation.

9 (5) Any defendant for whom all of the following are true:

10 (A) Has two separate convictions for nonviolent drug  
11 possession offenses.

12 (B) Has participated in two separate courses of drug treatment  
13 pursuant to subdivision (a).

14 (C) Is found by the court, by clear and convincing evidence, to  
15 be unamenable to any and all forms of available drug treatment.

16 Notwithstanding any other provision of law, the trial court  
17 shall sentence a defendant identified in this subparagraph to 30  
18 days in jail.

19 (c) Within seven days of an order imposing probation under  
20 subdivision (a), the probation department shall notify the drug  
21 treatment provider designated to provide drug treatment under  
22 subdivision (a). Within 30 days of receiving that notice, the  
23 treatment provider shall prepare a treatment plan and forward it  
24 to the probation department. On a quarterly basis after the  
25 defendant begins the drug treatment program, the treatment  
26 provider shall prepare and forward a progress report on the  
27 individual probationer to the probation department.

28 (1) If at any point during the course of drug treatment the  
29 treatment provider notifies the probation department that the  
30 defendant is unamenable to the drug treatment being provided,  
31 but may be amenable to other drug treatments or related  
32 programs, the probation department may move the court to  
33 modify the terms of probation to ensure that the defendant  
34 receives the alternative drug treatment or program.

35 (2) If at any point during the course of drug treatment the  
36 treatment provider notifies the probation department that the  
37 defendant is unamenable to the drug treatment provided and all  
38 other forms of drug treatment programs pursuant to subdivision  
39 (b) of Section 1210, the probation department may move to  
40 revoke probation. At the revocation hearing, if it is proved that

1 the defendant is unamenable to all drug treatment programs  
2 pursuant to subdivision (b) of Section 1210, the court may revoke  
3 probation.

4 (3) Drug treatment services provided by subdivision (a) as a  
5 required condition of probation may not exceed 12 months,  
6 unless the court finds that the continuation of treatment services  
7 beyond 12 months is necessary for drug treatment to be  
8 successful. If a court makes that finding, the court may order up  
9 to two extensions of probation and the continuation of treatment  
10 and aftercare for up to an additional six months. The period of  
11 treatment and aftercare shall not exceed 24 months.

12 (d) (1) (A) Except as provided in subparagraph (B), if the  
13 court finds that the defendant successfully completed drug  
14 treatment, and substantially complied with the conditions of  
15 probation, the conviction on which the probation was based shall  
16 be set aside and the court shall dismiss the indictment, complaint,  
17 or information against the defendant. In addition, except as  
18 provided in paragraphs (2) and (3), both the arrest and the  
19 conviction shall be deemed never to have occurred. Except as  
20 provided in paragraph (2) or (3), the defendant shall thereafter be  
21 released from all penalties and disabilities resulting from the  
22 offense of which he or she has been convicted.

23 (B) In order to dismiss the charging document of a defendant  
24 undergoing narcotics replacement treatment, the court shall deem  
25 that the defendant has successfully completed treatment if he or  
26 she has been participating in an appropriate program or has been  
27 treated by a physician for at least three months, and the program  
28 or physician reports adequate compliance with all elements of the  
29 defendant's treatment program. Funding for that defendant's  
30 treatment may continue for up to 18 months even if the charging  
31 document is dismissed.

32 (2) Dismissal of an indictment, complaint, or information  
33 pursuant to paragraph (1) does not permit a person to own,  
34 possess, or have in his or her custody or control any firearm  
35 capable of being concealed upon the person or prevent his or her  
36 conviction under Section 12021.

37 (3) Except as provided below, after an indictment, complaint,  
38 or information is dismissed pursuant to paragraph (1), the  
39 defendant may indicate in response to any question concerning  
40 his or her prior criminal record that he or she was not arrested or

1 convicted for the offense. Except as provided below, a record  
2 pertaining to an arrest or conviction resulting in successful  
3 completion of a drug treatment program under this section may  
4 not, without the defendant's consent, be used in any way that  
5 could result in the denial of any employment, benefit, license, or  
6 certificate.

7 Regardless of his or her successful completion of drug  
8 treatment, the arrest and conviction on which the probation was  
9 based may be recorded by the Department of Justice and  
10 disclosed in response to any peace officer application request or  
11 any law enforcement inquiry. Dismissal of an information,  
12 complaint, or indictment under this section does not relieve a  
13 defendant of the obligation to disclose the arrest and conviction  
14 in response to any direct question contained in any questionnaire  
15 or application for public office, for a position as a peace officer  
16 as defined in Section 830, for licensure by any state or local  
17 agency, for contracting with the California State Lottery, or for  
18 purposes of serving on a jury.

19 (e) (1) If probation is revoked pursuant to the provisions of  
20 this subdivision, the defendant may be incarcerated pursuant to  
21 otherwise applicable law without regard to the provisions of this  
22 section.

23 (2) If a defendant receives probation under subdivision (a),  
24 and violates that probation either by being arrested for an offense  
25 that is not a nonviolent drug possession offense, or by violating a  
26 non-drug-related condition of probation, and the state moves to  
27 revoke probation, the court shall conduct a hearing to determine  
28 whether probation shall be revoked. The court may modify or  
29 revoke probation if the alleged violation is proved.

30 (3) (A) If a defendant receives probation under subdivision  
31 (a), and violates that probation either by committing a nonviolent  
32 drug possession offense, or a misdemeanor for simple possession  
33 or use of drugs or drug paraphernalia, being present where drugs  
34 are used, or failure to register as a drug offender, or any activity  
35 similar to those listed in paragraph (1) of subdivision (d) of  
36 Section 1210, or by violating a drug-related condition of  
37 probation, and the state moves to revoke probation, the court  
38 shall conduct a hearing to determine whether probation shall be  
39 revoked. The trial court shall revoke probation if the alleged  
40 probation violation is proved and the state proves by a



1 preponderance of the evidence that the defendant poses a danger  
2 to the safety of others. If the court does not revoke probation, it  
3 may intensify or alter the drug treatment plan.

4 (B) If a defendant receives probation under subdivision (a),  
5 and for the second time violates that probation either by  
6 committing a nonviolent drug possession offense, or a  
7 misdemeanor for simple possession or use of drugs or drug  
8 paraphernalia, being present where drugs are used, or failure to  
9 register as a drug offender, or any activity similar to those listed  
10 in paragraph (1) of subdivision (d) of Section 1210, or by  
11 violating a drug-related condition of probation, and the state  
12 moves for a second time to revoke probation, the court shall  
13 conduct a hearing to determine whether probation shall be  
14 revoked. The trial court shall revoke probation if the alleged  
15 probation violation is proved and the state proves by a  
16 preponderance of the evidence either that the defendant poses a  
17 danger to the safety of others or is unamenable to drug treatment.  
18 In determining whether a defendant is unamenable to drug  
19 treatment, the court may consider, to the extent relevant, whether  
20 the defendant has committed a serious violation of rules at the  
21 drug treatment program, has repeatedly committed violations of  
22 program rules that inhibit the defendant's ability to function in  
23 the program, or has continually refused to participate in the  
24 program or asked to be removed from the program. If the court  
25 does not revoke probation, it may intensify or alter the drug  
26 treatment plan.

27 (C) If a defendant receives probation under subdivision (a),  
28 and for the third time or subsequent time violates that probation  
29 either by committing a nonviolent drug possession offense, or by  
30 violating a drug-related condition of probation, and the state  
31 moves for a third time to revoke probation, the court shall  
32 conduct a hearing to determine whether probation shall be  
33 revoked. If the alleged probation violation is proved, the court  
34 may intensify or alter the drug treatment plan, or may find that  
35 the defendant is no longer eligible for continued probation under  
36 subdivision (a).

37 (D) If a defendant on probation at the effective date of this act  
38 for a nonviolent drug possession offense violates that probation  
39 either by being arrested for a nonviolent drug possession offense,  
40 or a misdemeanor for simple possession or use of drugs or drug

1 paraphernalia, being present where drugs are used, or failure to  
2 register as a drug offender, or any activity similar to those listed  
3 in paragraph (1) of subdivision (d) of Section 1210, or by  
4 violating a drug-related condition of probation, and the state  
5 moves to revoke probation, the court shall conduct a hearing to  
6 determine whether probation shall be revoked. The trial court  
7 shall revoke probation if the alleged probation violation is proved  
8 and the state proves by a preponderance of the evidence that the  
9 defendant poses a danger to the safety of others. If the court does  
10 not revoke probation, it may modify probation and impose as an  
11 additional condition participation in a drug treatment program.

12 (E) If a defendant on probation at the effective date of this act  
13 for a nonviolent drug possession offense violates that probation a  
14 second time either by being arrested for a nonviolent drug  
15 possession offense, or a misdemeanor for simple possession or  
16 use of drugs or drug paraphernalia, being present where drugs are  
17 used, or failure to register as a drug offender, or any activity  
18 similar to those listed in paragraph (1) of subdivision (d) of  
19 Section 1210, or by violating a drug-related condition of  
20 probation, and the state moves for a second time to revoke  
21 probation, the court shall conduct a hearing to determine whether  
22 probation shall be revoked. The trial court shall revoke probation  
23 if the alleged probation violation is proved and the state proves  
24 by a preponderance of the evidence either that the defendant  
25 poses a danger to the safety of others or that the defendant is  
26 unamenable to drug treatment. If the court does not revoke  
27 probation, it may modify probation and impose as an additional  
28 condition participation in a drug treatment program.

29 (F) If a defendant on probation at the effective date of this act  
30 for a nonviolent drug offense violates that probation a third or  
31 subsequent time either by being arrested for a nonviolent drug  
32 possession offense, or by violating a drug-related condition of  
33 probation, and the state moves for a third time to revoke  
34 probation, the court shall conduct a hearing to determine whether  
35 probation shall be revoked. If the alleged probation violation is  
36 proved, the court may intensify or alter the drug treatment plan,  
37 or may find that the defendant is no longer eligible for continued  
38 probation under subdivision (a).

39 (f) The term “drug-related condition of probation” shall  
40 include a probationer’s specific drug treatment regimen,

1 employment, vocational training, educational programs,  
2 psychological counseling, and family counseling.

3 SEC. 4. Section 3063.1 of the Penal Code is amended to read:

4 3063.1. (a) Notwithstanding any other provision of law, and  
5 except as provided in subdivision (d), parole may not be  
6 suspended or revoked for commission of a nonviolent drug  
7 possession offense or for violating any drug-related condition of  
8 parole.

9 As an additional condition of parole for all of those offenses or  
10 violations, the parole authority shall require participation in and  
11 completion of an appropriate drug treatment program. Vocational  
12 training, family counseling and literacy training may be imposed  
13 as additional parole conditions.

14 The parole authority may require any person on parole who  
15 commits a nonviolent drug possession offense or violates any  
16 drug-related condition of parole, and who is reasonably able to  
17 do so, to contribute to the cost of his or her own placement in a  
18 drug treatment program.

19 (b) Subdivision (a) does not apply to any of the following:

20 (1) Any parolee who has been convicted of one or more  
21 serious or violent felonies in violation of subdivision (c) of  
22 Section 667.5 or Section 1192.7.

23 (2) Any parolee who, while on parole, commits one or more  
24 nonviolent drug possession offenses and is found to have  
25 concurrently committed a misdemeanor not related to the use of  
26 drugs or any felony.

27 (3) Any parolee who refuses drug treatment as a condition of  
28 parole.

29 (c) Within seven days of a finding that the parolee has either  
30 committed a nonviolent drug possession offense or violated any  
31 drug-related condition of parole, the parole authority shall notify  
32 the treatment provider designated to provide drug treatment  
33 under subdivision (a). Within 30 days thereafter the treatment  
34 provider shall prepare an individualized drug treatment plan and  
35 forward it to the parole authority and to the parole agent  
36 responsible for supervising the parolee. On a quarterly basis after  
37 the parolee begins drug treatment, the treatment provider shall  
38 prepare and forward a progress report on the individual parolee  
39 to these entities and individuals.

1 (1) If at any point during the course of drug treatment the  
2 treatment provider notifies the parole authority that the parolee is  
3 unamenable to the drug treatment provided, but amenable to  
4 other drug treatments or related programs, the parole authority  
5 may act to modify the terms of parole to ensure that the parolee  
6 receives the alternative drug treatment or program.

7 (2) If at any point during the course of drug treatment the  
8 treatment provider notifies the parole authority that the parolee is  
9 unamenable to the drug treatment provided and all other forms of  
10 drug treatment provided pursuant to subdivision (b) of Section  
11 1210 and the amenability factors described in subparagraph (B)  
12 of paragraph (3) of subdivision (e) of Section 1210.1, the parole  
13 authority may act to revoke parole. At the revocation hearing,  
14 parole may be revoked if it is proved that the parolee is  
15 unamenable to all drug treatment.

16 (3) Drug treatment services provided by subdivision (a) as a  
17 required condition of parole may not exceed 12 months, unless  
18 the court finds that the continuation of treatment services beyond  
19 12 months is necessary for drug treatment to be successful. If a  
20 parole authority makes that finding, the parole authority may  
21 order up to two extensions of parole and the continuation of  
22 treatment and aftercare for up to an additional six months. The  
23 period of treatment and aftercare shall not exceed 24 months.

24 (d) (1) If parole is revoked pursuant to the provisions of this  
25 subdivision, the defendant may be incarcerated pursuant to  
26 otherwise applicable law without regard to the provisions of this  
27 section. Parole shall be revoked if the parole violation is proved  
28 and a preponderance of the evidence establishes that the parolee  
29 poses a danger to the safety of others.

30 (2) If a parolee receives drug treatment under subdivision (a),  
31 and during the course of drug treatment violates parole either by  
32 committing an offense other than a nonviolent drug possession  
33 offense, or by violating a non-drug-related condition of parole,  
34 and the parole authority acts to revoke parole, a hearing shall be  
35 conducted to determine whether parole shall be revoked. Parole  
36 may be modified or revoked if the parole violation is proved.

37 (3) (A) If a parolee receives drug treatment under subdivision  
38 (a), and during the course of drug treatment violates parole either  
39 by committing a nonviolent drug possession offense, or a  
40 misdemeanor for simple possession or use of drugs or drug

1 paraphernalia, being present where drugs are used, or failure to  
2 register as a drug offender, or any activity similar to those listed  
3 in paragraph (1) of subdivision (d) of Section 1210, or by  
4 violating a drug-related condition of parole, and the parole  
5 authority acts to revoke parole, a hearing shall be conducted to  
6 determine whether parole shall be revoked. Parole shall be  
7 revoked if the parole violation is proved and a preponderance of  
8 the evidence establishes that the parolee poses a danger to the  
9 safety of others. If parole is not revoked, the conditions of parole  
10 may be intensified to achieve the goals of drug treatment.

11 (B) If a parolee receives drug treatment under subdivision (a),  
12 and during the course of drug treatment for the second time  
13 violates that parole either by committing a nonviolent drug  
14 possession offense, or by violating a drug-related condition of  
15 parole, and the parole authority acts for a second time to revoke  
16 parole, a hearing shall be conducted to determine whether parole  
17 shall be revoked. If the alleged parole violation is proved, the  
18 parolee may be reincarcerated or the conditions of parole may be  
19 intensified to achieve the goals of drug treatment.

20 (C) If a parolee already on parole at the effective date of this  
21 act violates that parole either by committing a nonviolent drug  
22 possession offense, or a misdemeanor for simple possession or  
23 use of drugs or drug paraphernalia, being present where drugs are  
24 used, or failure to register as a drug offender, or any activity  
25 similar to those listed in paragraph (1) of subdivision (d) of  
26 Section 1210, or by violating a drug-related condition of parole,  
27 and the parole authority acts to revoke parole, a hearing shall be  
28 conducted to determine whether parole shall be revoked. Parole  
29 shall be revoked if the parole violation is proved and a  
30 preponderance of the evidence establishes that the parolee poses  
31 a danger to the safety of others. If parole is not revoked, the  
32 conditions of parole may be modified to include participation in  
33 a drug treatment program as provided in subdivision (a). This  
34 paragraph does not apply to any parolee who at the effective date  
35 of this act has been convicted of one or more serious or violent  
36 felonies in violation of subdivision (c) of Section 667.5 or  
37 Section 1192.7.

38 (D) If a parolee already on parole at the effective date of this  
39 act violates that parole for the second time either by committing  
40 a nonviolent drug possession offense, or by violating a

1 drug-related condition of parole, and the parole authority acts for  
2 a second time to revoke parole, a hearing shall be conducted to  
3 determine whether parole shall be revoked. If the alleged parole  
4 violation is proved, the parolee may be reincarcerated or the  
5 conditions of parole may be intensified to achieve the goals of  
6 drug treatment.

7 (e) The term “drug-related condition of parole” shall include a  
8 parolee’s specific drug treatment regimen, and, if ordered by the  
9 parole authority pursuant to this section, employment, vocational  
10 training, educational programs, psychological counseling, and  
11 family counseling.

12 SEC. 5 No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the  
17 penalty for a crime or infraction, within the meaning of Section  
18 17556 of the Government Code, or changes the definition of a  
19 crime within the meaning of Section 6 of Article XIII B of the  
20 California Constitution.

21 *SEC. 6. This act is an urgency statute necessary for the*  
22 *immediate preservation of the public peace, health, or safety*  
23 *within the meaning of Article IV of the Constitution and shall go*  
24 *into immediate effect. The facts constituting the necessity are:*

25 *In order to ensure that the essential services provided under*  
26 *the Substance Abuse and Crime Prevention Act of 2000 continue*  
27 *to be provided without interruption, it is necessary that this act*  
28 *take effect immediately.*